

Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

45047

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed
name _____

Application Number

10/617,363

Filed

July 11, 2003

First Named Inventor

Wu Zhangyi et al.

Art Unit

2617

Examiner

German V. Di Prisco

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

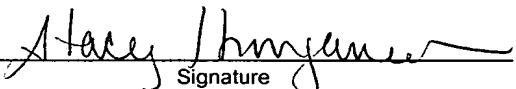
☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 33,952
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____


Signature

Stacey J. Longanecker

Typed or printed name

(202) 659-9076

Telephone number

May 9, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 3 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Appl. No. 10/617,363
Request for Pre-Appeal Brief Conference in reply to
final Office Action dated January 8, 2008



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---------------------------------|---|-------------------------------|
| In re Application of: |) | Atty Docket No.: 45047 |
| |) | |
| <u>Zhangyi, Wu</u> |) | |
| |) | |
| Serial No.: 10/617,363 |) | Group Art Unit: 2609 |
| |) | |
| Filed: July 11, 2003 |) | Examiner: Viana Di Prisco, G. |
| |) | |
| For: METHOD AND APPARATUS FOR |) | Customer No.: 01609 |
| IMPLEMENTING FILE TRANSFERS TO |) | |
| RECEIVERS IN A DIGIAL BROADCAST |) | Confirmation No.: 1506 |
| SYSTEM |) | |

USPTO Customer Service Window
ATTN.: Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This paper is being filed in response to the final Office Action dated January 8, 2008, for which an early response was filed Monday, March 10, 2008 and an Advisory Action was issued on April 9, 2008. A Notice of Appeal, a request for a one-month extension of time to extend the response date to May 9, 2008, and corresponding fees are being submitted herewith.

REMARKS

Claims 1, 3, 4, 6, 8-13, 16-28, 30-37 and 42 presently stand rejected. Claims 1, 6, 8, 25, 28 and 37 are independent.

I. Claims 1, 3-5, 11, 34, 35 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application Publication No.: US 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: US 7,006,500 B1) and

further in view of Kukic (United States Patent Application Publication No.: US 2003/0169780 A1).

a. The Applicants respectfully submit that Barlev et al does not teach a high speed data interface adapted to receive said DS3 data stream and to inversely multiplex said high speed data stream into four parallel data streams that each comprise an approximately 11 megabits per second stream (Mbps), nor a plurality of modems adapted to modulate each corresponding stream of packets having a data rate of approximately 13 Mbps onto a twisted pair conductor. Applicants request review of the application of Barlev et al to reject the independent claim 1. See Applicants' arguments on page 12, lines 13 through 25 of the Amendment & Response submitted on March 10, 2008. The Examiner alleges in the Advisory Action that Barlev et al can be used in any environment with copper lines. Applicants disagree and submit that any such modification asserted by the Examiner cannot be in contradistinction with the disclosed objective in Barlev et al identified in the Applicants' arguments.

b. The Applicants respectfully submit that Pedersen et al fails to cure the defects of Barlev et al, and request review of the application of Pedersen et al to reject the independent claim 1. See Applicants' arguments on page 11, line 11 through page 12, line 12 of the Amendment & Response submitted on March 10, 2008.

c. The Applicants respectfully submit that Kukic fails to cure the defects of Barlev et al modified by Pedersen et al, and request review of the application of Kukic in the rejection of independent claim 1. See Applicants' arguments on page 10, line 18 through page 11, line 10 of the Amendment & Response submitted on March 10, 2008.

II. Claims 6, 28 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application No.: US 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: US 7,006,500 B1) and further in view of Sheets et al. (United States Patent No.; 5,437,023).

a. Even though claims 6, 28 and 37 do not specifically recite parallel data streams that each comprise an approximately 11 Mbps or a plurality of modems adapted to modulate each corresponding stream of packets having a data rate of approximately 13

Appl. No. 10/617,363
Request for Pre-Appeal Brief Conference in reply to
final Office Action dated January 8, 2008

Mbps onto a twisted pair conductor as in claim 1, Applicants maintain that Barlev et al and Pedersen et al fail to disclose the recited elements for which they are relied on in the rejection of independent claims 6, 28 and 37 for reasons stated above in connection with claim 1 on page 12, lines 13 through 25 of the Amendment & Response submitted on March 10, 2008.

b. The Applicants respectfully submit that Sheets et al fails to cure the defects of Barlev et al modified by Pedersen et al, and request review of the application of Sheets et al in the rejection of independent claims 6, 28 and 37. See Applicants' arguments on page 13, lines 8 through 25 of the Amendment & Response submitted on March 10, 2008.

III. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application Publication No.: US 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: 7,006,500 B1). With respect to claim 27, the Examiner apparently also relies on Kukic on pages 16 and 17 of the office action.

Applicants submit that Barlev et al and Pedersen et al fail to disclose the recited elements for which they are relied on in the rejection of independent claim 25 for reasons stated above in connection with claim 1. See Applicants remarks on page 14, line 11 through page 15, line 11 of the Amendment & Response submitted on March 10, 2008.

IV. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application Publication No.: 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: US 7,006,500 B1) and Kukic (United States Patent Application Publication No.: US 2003/0169780 A1) and further in view of Wolf et al. (United States Patent Application Publication No.: US 2002/0080825 A1).

a. Applicants submit that Barlev et al, Pedersen et al and Kukic fail to disclose the recited elements for which they are relied on in the rejection of independent claim 36 for reasons stated above in connection with claim 34.

b. The Applicants respectfully submit that Wolf et al fails to cure the defects of Barlev et al modified by Pedersen et al and Kukic, and request review of the

application of Wolf et al in the rejection of claim 36. See Applicants' arguments on page 15, lines 17 through 24 of the Amendment & Response submitted on March 10, 2008.

V. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application Publication No.: US 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: US 7,006,500 B1) and Somekh et al. (United States Patent No.: 7,230,977 B1) and further in view of Peters (United States Patent No.: US 6,967,589 B1).

a. In response to the sixth paragraph in the Response to Arguments section of the Advisory Action, Applicants refute the Examiner's modification of the modems 60 and 68 in Somekh et al using the purported teaching of Barlev et al and Pedersen et al. Applicants submit that it is improper to modify modems as taught by Somekh et al to be respective ones of the recited first and second apparatuses that each have a high speed data interface, a framer, a plurality of modems, and a switch as claimed.

b. The Applicants respectfully submit that Somekh et al fails to cure the defects of Barlev et al modified by Pedersen et al, and request review of the application of Somekh et al in the rejection of claim 8. See Applicants' arguments on page 16, lines 12 through 22 of the Amendment & Response submitted on March 10, 2008.

c. The Applicants respectfully submit that Peters fails to cure the defects of Barlev et al modified by Pedersen et al and Somekh et al, and request review of the application of Peters in the rejection of claim 8. See Applicants' arguments on page 16, line 23 through page 17, line 6 of the Amendment & Response submitted on March 10, 2008.

VI. Dependent claims 9, 10, 12, 13, 16-24 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlev et al. (United States Patent Application Publication No.: 2005/0220180 A1) in view of Pedersen et al. (United States Patent No.: US 7,006,500 B1) and Somekh et al. (United States Patent No.: US 7,230,977 B1) and Peters (United States Patent No.: 6,967,589 B1) and further in view of corresponding ones of Gewin et al. (United States Patent No.: 5,060,226), Sheets et al. (United States Patent No.: 5,437,023), ADC

Appl. No. 10/617,363
Request for Pre-Appeal Brief Conference in reply to
final Office Action dated January 8, 2008

Telecommunications "A" and "C", Stearns (United States Patent No.: US 7,058,011 B1) and
Koenig et al. (United States Patent No.: US 6,275,510 B1).

- a. The Applicants respectfully submit that these dependent claims are allowable in view of the reasons set forth above in connection with claim 8.
- b. The Applicants respectfully submit that Gewin fails to cure the defects of Barlev et al modified by Pedersen et al and Somehk et al, and request review of the application of Peters in the rejection of claims 9, 10, 31 and 32. See Applicants' arguments on page 17, lines 12 through 25 of the Amendment & Response submitted on March 10, 2008.
- c. With regard to item 14 on pages 16 and 17 of the final Office Action, the Examiner apparently omitted any reasoning to apply the cited art to reject claims 30 and 33 in the Office Action. See Applicants' arguments on page 18, lines 4 through 9 of the Amendment & Response submitted on March 10, 2008.

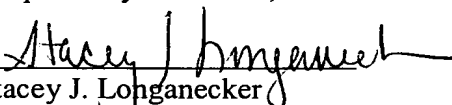
In view of the above, Applicants respectfully request withdrawal of the 35 U.S.C. 103(a) rejections of the pending claims.

Conclusion

Following review by the panel, a decision on the status of the application is respectfully requested. Although no fee is believed due by submission of this paper, authorization is hereby made to charge any fees due or outstanding, or credit any overpayment, to Deposit Account No. 18-2220 (Order No. 45047)

Date: May 9, 2008

Respectfully submitted,


Stacey J. Longanecker
Reg. No. 33,952
Attorney for Applicant

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036-2680
Main: (202) 659-9076
Direct: (202) 530-7370